

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/663,016 Confirmation No.: 1738
Applicant : Polly Stecyk
Filing Date : 9/15/2003
Title : PASSIVE MEDIA RATINGS ENFORCEMENT SYSTEM
Group Art Unit : 2423
Examiner : Junior O. Mendoza
Docket No. : 705397.4005
Customer No. : 34313

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF UNDER 37 C.F.R. § 41.41

Sir:

This Reply Brief is submitted in support of Applicants' pending appeal to the Board of Patent Appeals and Interferences from a Final Office Action dated February 7, 2008.

Appellants submit this Reply Brief, in compliance with 37 C.F.R. § 41.41.

STATUS OF CLAIMS

At the time of the Notice of Appeal, Claims 1-14 and 22-35 were pending in the application and were finally rejected.

Applicant appeals the final rejection of Claims 1-14 and 22-35.

STATUS OF AMENDMENTS

Applicant has not filed any amendments subsequent to final rejection.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-14 and 22-35 are unpatentable under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 7,134,130 to Thomas ("Thomas") in view of U.S. Published Application No. 2004/0078806 by Johnson et al. ("Johnson") further in view of U.S. Published Application No. 2009/0282428 by Rodriguez ("Rodriguez").

Argument Under 37 C.F.R. § 41.41

Despite the Examiner's arguments to the contrary, the obviousness rejections based on the combination of Thomas, Johnson and Rodriguez cannot be supported. In the Examiner's Answer, the Examiner alleges that Thomas, Johnson, and Rodriguez "pursue similar objectives" and "their combination would produce the predictable result of allowing a parent to configure a television system to block objectionable content material while children are awake and allow [] more content when only adults are around." However, Rodriguez is not able to ensure that "only adults are around." Specifically, the only requirement in Rodriguez to override the control schema is that one person in the room is authorized. So long as one viewer enters the PIN code or other form of authorization, everyone in the room and those entering the room later are able to watch the programming regardless of any viewer profiles associated with these additional viewers. In other words, simply because Rodriguez uses a PIN or authorization code, this does not make it a viewer-based control scheme. True, Rodriguez can initially block users from content elected to be blocked. But as soon as a single viewer enters the correct authorization information, it is apparent that the Rodriguez system is not truly "viewer-based" as the other viewers in the room or those who enter the room later would be permitted access to the content.

Furthermore, contrary to the Examiner's statement (p. 20, lines 15-16), the teaching of Thomas does explicitly discourage the implementation of the teachings of Rodriguez. As cited in Applicant's Opening Appeal Brief, the PIN-based, "all-or-nothing" method relied upon by Rodriguez is distinguished and criticized by Thomas:

Channel locks that prevent tuning to certain channels without a password, but once unlocked, manual intervention is required to prevent the viewing of a channel's content by persons for whom that content is unsuitable. The present invention provides the

ability to automatically block or terminate the display or playing of such material when someone outside the predetermined allowed audience is present. (Thomas, Col. 6:16-23).

Thus, Thomas specifically teaches away from non-viewer-based systems such as that in Rodriguez, and thus the Examiner's rejection based on the combination of these references should be withdrawn.

Conclusion

Applicants have demonstrated that the final rejection of claims 1-14 and 22-35 is improper and that claims 1-14 and 22-35 should be allowed. Applicants request that the Final Office Action of February 1, 2011 be reversed and the present application be allowed.

The Commissioner is authorized to charge any fee which may be required in connection with this Appeal Brief to deposit account No. 15-0665.

Respectfully submitted,
ORRICK, HERRINGTON & SUTCLIFFE LLP

Dated: August 19, 2011

By: /s/ Mark J. Shean

Mark J. Shean

Reg. No. 54,441

Orrick, Herrington & Sutcliffe LLP
4 Park Plaza, Suite 1600
Irvine, CA 92614-2558
Tel. 949-567-6700
Fax: 949-567-6710
Customer Number: 34313